## CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence, including recited attachments, is being electronically transmitted to the Commissioner for Patents in the United States Patent and Trademark Office on the date below:

Date: October 23, 2007

Name: Richard E. Stanley

Signature: /Richard E. Stanley, Jr./ Reg. No. 45,662

Our Case No. 8627-51 Client Ref. No. PA-5322-RFB

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:		)
	Brian Bates	)
Serial No	o. 10/092,095	Éxaminer: DAWSON, Glenn K
Filing Da	ate: March 6, 2002	) Group Art Unit No.: 3731
For PARTIALLY COVERED INTRALUMINAL SUPPORT DEVICE		) Confirmation No. 8504 ) )

## **REQUEST FOR REFUND**

Mail Stop 16 Director of the USPTO P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

On April 19, 2007 Applicant filed a second pre-appeal brief request for review. Since an appeal fee was previously paid by Applicant with the first pre-appeal brief request for review filed on November 3, 2006, Applicant believed no fee to be due in connection with the second pre-appeal brief request of April 19. However, Brinks Hofer Gilson & Lione Deposit Account 23-1925 was charged a second \$500 for the April 19 pre-appeal request.

Accordingly, Applicant hereby requests a refund for the April 19 second appeal fee charge of \$500. Enclosed is a copy of the Pre-Appeal Brief Request for Review of April 19 and Pre-Appeal Brief Request for Review of November 3, 2006 and detail evidencing the duplicate charges.

As noted in MPEP §1204.01, "Any previously paid appeal fees set for the in 37 CFR 41.20 for filing a notice of apeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal." Because prosecution was re-opened in response to the first pre-appeal brief request for review, the Board did not act on Applicant's appeal and no final Board decision was made. Therefore, as stated in MPEP § 1204.01, the appeal fee paid on November 3, 2006 for the first pre-appeal brief request for review should have been applied to the second pre-appeal brief request for review filed April 19, 2007. Because the Patent Office double charged Applicant for the appeal fee, Applicant believes a refund of \$500 is warranted.

Respectfully submitted,

/Richard E. Stanley, Jr./ Richard E. Stanley, Jr. Registration No. 45,662 Attorney for Applicant

BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, ILLINOIS 60610 (312) 321-4200